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DIGEST OF RECENT VIRGINIA DECISIONS.

E. A. WATKINS & BROS. v. JONES et al.

June 13, 1907.

[57 S. E. 608.]

Judicial Sales—Refusal to Confirm—Advance on Bid.—Where land was sold at judicial sale for \$2,175, and resold for \$2,100, it was improper to refuse to confirm the second sale, though one of the defendants in the cause put in an upset bid of \$300; the price bid at the second sale being a fair one, the terms of the sale having been complied with in all respects, and defendant having attended both sales.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 31, Judicial Sales, §§ 77, 78, 87.]

AUSTIN v. MINOR.

June 13, 1907.

[57 S. E. 609.]

1. Quieting Title—Cloud on Title—Removal—Possession of Plaintiff.—Equity will entertain jurisdiction of a suit by the owner of land in possession thereof to remove a cloud from his title; but, where the owner having the legal title has not the actual possession and another asserts an adverse claim, the remedy is by ejectment.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 41, Quieting Title, §§ 44, 45.]

2. Same—Title to Support Action—Evidence—Admissibility.—In a bill to remove a cloud on title, complainant claimed title under a deed from a grantor holding under a deed not embracing the land in controversy, but attempted to show by reference to an old plat containing a memorandum that the land in controversy belonged to him. Held, that the plat with the memorandum was admissible in determining the boundaries and title, but did not in itself constitute title.

3. Same.—In a suit to remove a cloud on title, defendant claimed the land in controversy as appurtenant to his riparian rights, and showed that the land was affected by the ebb and flow of the tide, but did not show either the high-water mark or the low-water mark, nor the relation of the land in dispute to high and low water mark. Held insufficient to enable the court to determine the riparian rights of defendant to the land in controversy.

4. Adverse Possession—What Constitutes Possession.—In a suit to remove a cloud on title, it appeared that the property was valuable only for hunting, fishing, and trapping, and that a great many people hunted, fished, and trapped thereon. The persons under whom complainant claimed used and enjoyed it in these respects far more than